

EXCERPTED DEPO. TR.
MAYRA PENA

In The Matter Of:
Pena vs
Honeywell International, Inc.

Mayra F. Pena
November 3, 2016

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1 A. Sandra Sycal.

2 Q. I understand, Ms. Pena, that you were in the
3 Dominican Republic for the summer?

4 A. I do go there because I get very severe
5 depression, and my psychiatrist recommended that I
6 should go there because I get better when I go
7 there.

8 Q. Do you know why you get better when you go to the
9 Dominican Republic?

10 A. He says that, for example, during the fall, I
11 get the depression more severe because of like
12 winter blues.

13 Q. So how often do you go to the Dominican Republic?

14 A. I've been going more. I went about two
15 months ago, and I am planning on going back
16 because my depression is more severe.

17 Q. Last year in 2015 how often did you go to the
18 Dominican Republic, and for how long?

19 A. I don't quite recall how long, but I know
20 that I went about once or twice.

21 Q. Okay. What part of the Dominican Republic are you
22 from?

23 A. Capital city, Santo Domingo.

24 Q. I've been to Santo Domingo, and I have been to El
25 Pedregal in the mountains. I don't know if you

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1 know where that is.

2 A. No, I don't. It could be in a place called
3 Seawow (phonetic).

4 Q. It's very remote up in the mountains. So when did
5 you come to the United States from the Dominican
6 Republic?

7 A. 1985.

8 Q. Why did you come?

9 A. My mother got us all here.

10 Q. And how old were you in 1985?

11 A. I was about 24, 25 years old.

12 Q. Did you come to Rhode Island originally?

13 A. No.

14 Q. Where did you go?

15 A. Puerto Rico.

16 Q. So you went from the Dominican Republic to Puerto
17 Rico?

18 A. Yes.

19 Q. Then when did you leave Puerto Rico and come to
20 the mainland, United States?

21 A. Around 1987, I believe.

22 Q. And did you come to Rhode Island then?

23 A. No, I was in New York.

24 Q. How long did you stay in New York?

25 A. I came here in 1989.

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1 this past letter indicating that they're going to
2 make the benefits retroactive to March of 2013?

3 THE WITNESS: That letter? And
4 whatever they approved -- whatever level of
5 approval I got?

6 MR. McNAMARA: Yes. And anything you
7 received before that. I think Ms. Connor
8 understands what I'm looking for, she will help
9 you with that?

10 THE WITNESS: Okay.

11 Q. Because Social Security Disability, as I
12 understand it, determined that you were totally
13 disabled from work as of March 8, 2013?

14 THE INTERPRETER: Social Security?

15 MR. McNAMARA: Social Security
16 Disability, yes.

17 A. Yes.

18 Q. As of March 8, 2013, correct?

19 A. I had applied in September of 2013 based on
20 what the doctor had recommended, but they
21 determined that since I hadn't received anything
22 at all for that year, they would make it
23 retroactive.

24 Q. But your application for Social Security
25 Disability stated that you were totally disabled

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1 from work as of March 8, 2013; is that correct?
2

A. I believe so.

3 Q. I have that application, and I'll show it to you
4 later, but that's what it says. Back to Rhode
5 Island. When did you start to work for Honeywell
6 or North Safety Products?

7 A. 2003 or 2002. I don't quite recall.

8 Q. So, at that point -- that's fine. All I want is
9 your best memory. So my understanding is that
10 as -- strike that. Did you first work in
11 Cranston?

12 A. I don't understand. What do you mean by
13 Cranston?

14 Q. Cranston, Rhode Island?

15 THE WITNESS: The first time I
16 worked?

17 Q. Yes. In 2002 to '3 or '3 that's when you said you
18 worked for either Honeywell or North Safety
19 Products?

20 A. Yes.

21 Q. And was that facility you worked in in Cranston,
22 Rhode Island?

23 THE WITNESS: North Safety?

24 MR. McNAMARA: Yes.

25 A. Yes.

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1 Q. Because North Safety was purchased by Honeywell in
2 2008?

3 A. Yes.

4 Q. So, throughout your employment, whether it was for
5 North Safety or Honeywell, did you work in that
6 Cranston facility?

7 A. I worked in an area they called HEPA.

8 Q. I understand you worked in the HEPA area. I'm
9 talking about the town that the facility was in.

10 A. It was the same.

11 Q. I understand. I apologize. The building where
12 you worked from 2002 or '3 until 2013, was that
13 building in Cranston, Rhode Island?

14 A. Yes, it was in Cranston.

15 Q. That's what I was looking for. When you started
16 to work for North Safety Products, what was your
17 job?

18 A. I was working in assembly, and I was also a
19 machine operator.

20 Q. Do you remember about how many people worked in
21 that building when you started there?

22 A. The building was huge. I remember -- I know
23 about my area.

24 Q. Okay. How many people worked in your area when
25 you started?

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1 A. Approximately 20.

2 Q. Who was your supervisor when you started?

3 A. I don't remember the name, Julia Mercedes.

4 Q. I'll tell you now, if I ask you a question and you
5 don't remember the answer, but then in an hour or
6 so you remember it, remind me, and you come back
7 and give me the answer if you do.

8 A. Okay.

9 Q. Thank you. So in that first job, what did you do?

10 A. Assembly.

11 Q. Assembly of what?

12 A. It was the filter that they use for breathing
13 masks.

14 Q. Now, was that the HEPA you referred to before?

15 A. Yes.

16 Q. And that also is sometimes called respiratory?

17 A. That was another area.

18 Q. That was a different area. Okay. So there were
19 20 people who worked in HEPA when you started?

20 A. More or less.

21 Q. And can you explain to me what the work area was
22 like, were there machines, were you assembling
23 different pieces of equipment, whatever you can
24 remember I would appreciate.

25 A. There were about six assemblers and the parts

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1 Q. And we know there was another area called molding,
2 correct?

3 A. Yes.

4 Q. And it's my understanding that there were four
5 areas all together. Can you remember what the
6 fourth area was called?

7 A. I don't remember the name of that fourth
8 area, but I do remember there was another area
9 where they did some assembly as well.

10 Q. Okay. Were these four areas all in a very large
11 room, or were they in separate rooms?

12 A. Separate.

13 Q. They were separate. When you were working in
14 HEPA, did you ever need to wear earplugs?

15 A. Yes.

16 Q. Why was that?

17 A. Because of the equipment, the machines.

18 Q. So the machines were loud?

19 A. They weren't really that loud, but it was
20 mandatory to have those earplugs.

21 Q. So the company required you to wear those earplugs
22 for your own safety?

23 A. In all the areas.

24 Q. In all the areas. Okay.

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1 A. This is where I mentioned earlier the
2 gentlemen used to work.

3 Q. Okay. And also in HEPA?

4 A. Yes, in HEPA.

5 Q. Finally, the fourth photograph?

6 A. It's also HEPA where we used to place the
7 parts, and then they would come down to this
8 machine.

9 Q. So, all four photos in Exhibit A are photos of
10 portions of the HEPA area that you worked in?

11 A. I believe so.

EXHIBIT B (DEFENDANT'S EXHIBIT B)

MARKED FOR IDENTIFICATION)

14 Q. So, Ms. Pena, Exhibit B is another grouping of
15 four photographs, and I'd like you to tell me if
16 you recognize what portion of the Honeywell
17 facility these photographs are of.

18 A. Truthfully, I couldn't tell you. It could
19 very well be molding, but I went there to work on
20 some occasions, but I'm not sure.

21 Q. I've been told that these four pictures are of the
22 molding area?

23 A. I worked in molding only for the safety hats,
24 and also there was some plastic that would drive
25 me crazy.

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1 Q. So does that mean that -- well, strike that. Were
2 you ever told why the company trained you to work
3 in molding?

4 A. I told them that it was harmful for me to
5 work in that area, and they said that it was
6 mandatory training for everybody.

7 Q. Okay. I understand that. But that's not the
8 question I asked you. Did the company explain to
9 you why they were training you and other employees
10 to work in molding?

11 A. They told me that it was only two weeks, and
12 it would involve more people, but it was mandatory
13 to have the people take that training.

14 Q. I understand it was mandatory, but that's still
15 not the question I asked you. The question is I
16 understand that you were told it was mandatory.
17 What I would like to know is when you were given
18 the training, did the company explain to you why,
19 after these years where you worked in HEPA, they
20 now wanted to train you and other employees to
21 work in molding?

22 A. No one explained to me why.

23 Q. Did anyone explain to you that the company wanted
24 to be able to move people around from one section
25 to another in case people were on vacation or

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1 A. No.

2 Q. But you say you were on a medical leave, correct?

3 A. Almost every year because in the fall I have
4 to leave on medical leave.

5 Q. Okay. So I have a listing here of dates that you
6 were on medical leave in late 2011 through 2012.

7 I'm going to read you the dates and see if you can
8 remember them, and if you can tell me what the
9 reason for the leave was each time, okay? So the
10 first leave I have is from October 14th, 2011 to
11 November 21st, 2011. Do you remember that leave?

12 A. No, I don't remember.

13 Q. The next leave I have that you were on was from
14 December 16th, 2011 to February 13, 2012.

15 THE INTERPRETER: 2012?

16 MR. McNAMARA: Yes.

17 A. That was because of depression.

18 Q. I speak Spanish a little bit. I followed you, you
19 didn't get the years right. Let's start over.
20 The second medical leave is from December 16, 2011
21 to February 13, 2012?

22 A. I'm not quite sure, but it was almost always
23 because of depression.

24 Q. There's two more I want to ask you about. There
25 was a leave from June 22nd of 2012 to August 6,

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1 meant?

2 A. They didn't take me anywhere and it wasn't
3 explained anything when that happened.

4 Q. Okay. Did you receive this -- strike that. Do
5 you remember a person who worked in human
6 resources called Amy Green?

7 A. No.

8 Q. Do you remember who gave you this final warning?

9 A. I don't remember, and I don't remember any
10 such incident, because I never refused to go to
11 any area that I was assigned to work.

12 Q. All right. Now in your complaint which your
13 attorneys filed in court for you, Ms. Pena, you
14 claim discrimination based on disabilities?

15 A. Yes.

16 Q. Which disabilities do you claim you were
17 discriminated because of?

18 A. Because I get anxiety and panic attacks. I
19 have been sick since I was 8 years old, and they
20 took me to molding, and I explained to them how
21 that affected me. There were some roll bolts
22 (sic) that would startle me, and I would get very
23 nervous because of that. They requested a letter
24 from the psychiatrist, which I took that letter to
25 them. They did not accept that letter. They

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1 did not want to go; do you remember that?

2 A. No.

3 Q. When is the first time you remember -- well,
4 strike that. Starting January 14th you've
5 testified that two to three times a week you would
6 be sent to molding for about four hours?

7 A. Uh-huh.

8 Q. When was the first time -- well, strike that. At
9 some point did you tell Myra Fermin that you did
10 not want to go to molding?

11 A. Never. Can I say something?

12 MR. McNAMARA: Yes.

13 A. When they purchased that area, because those
14 equipment for molding was purchased later, I was
15 working at Honeywell through a temp agency, and
16 every time I would go around that area -- first I
17 was working as a temp, but they had promised to
18 make me a permanent employee. But every time I
19 would go around there, the smell and the noise, I
20 was affected by it.

21 They train people who have been with the temp
22 agency for only a couple of months, and they give
23 them permanent employment in that area. But I
24 wasn't -- I had been there for about four, four
25 and a half years, I wasn't given permanent

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1 employment until after the four years.

2 Q. Okay. But you weren't asked to go to molding
3 until 2012, right?

4 A. Yes, until 2012.

5 Q. Right. So at some point in 2013 did you tell any
6 supervisor that either you didn't want to work in
7 molding or that you couldn't work in molding
8 because of a medical condition?

9 A. Of course, and that's when they requested the
10 letter from the psychiatrist.

11 Q. Okay. So, when a minute ago I asked you if you
12 ever told Myra Fermin that you did not want to
13 work in molding and you said never, now you've
14 told me that at some point they told you you
15 needed to bring a psychiatrist's letter so you
16 wouldn't have to work in molding.

17 A. When they started sending me more frequently,
18 I told them that I was depressed, and I was
19 getting panicked because of the equipment, and
20 they said I should bring a letter from my doctor.

21 Q. Okay. Do you remember when that was?

22 A. I believe it was towards the end of February
23 that I took the first letter.

24 Q. Okay. Do you remember some time at the end of
25 February going to Jose Gouveia and telling him

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1 that you had a problem because Myra Fermin kept
2 sending you to the molding department?

3 A. Yes. I went to see him because I was being
4 denied my breaks as well.

5 Q. Right. We've already talked about that. What I'm
6 asking you about now is did you go to him to tell
7 him that you had a problem because Myra Fermin was
8 asking you to work in the molding department?

9 A. I did explain that to him also, and he told
10 me if I had so many health problems, why didn't I
11 apply for Social Security.

12 Q. Isn't it true that what he actually said to you
13 later was that when you were out on leave that you
14 should apply for Temporary Disability Insurance or
15 short-term disability benefits?

16 A. Not temporary. He said if I had so many
17 problems with panic, depression, diabetes, why
18 didn't I apply for Social Security, and I told him
19 I wouldn't because Social Security would not give
20 me what I'm making working for the company.

21 Q. Okay. Did you ever tell Jose Gouveia that you
22 just did not like working in molding?

23 A. Not that I didn't like working there, but it
24 was harmful to me emotionally.

25 Q. When you had this conversation with Mr. Gouveia

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1 EXHIBIT D (DEFENDANT'S EXHIBIT D

2 MARKED FOR IDENTIFICATION)

3 Q. Ms. Pena, Exhibit D is a note from Dr. Greer to
4 Honeywell dated March 4th. Is this the note from
5 Dr. Greer that you gave to Honeywell about your
6 not being able to work in molding?

7 A. I believe that was the first letter, yes.

8 Q. Right. This is dated March 4th. When did you
9 give this letter to Honeywell?

10 A. I believe it was the next day, because I
11 was -- after this letter I was given another one.

12 Q. Well, the next letter from your doctor that I have
13 after this one is dated April 2nd, but in any
14 event --

15 A. He sent two letters prior to me leaving. I
16 do have them at home.

17 MR. McNAMARA: If there's another
18 letter --

19 MS. CONNOR: I can look into that.

20 MR. McNAMARA: The only one I have
21 is this one.

22 MS. CONNOR: We only have these two
23 as well.

24 THE WITNESS: And the second letter
25 he explained that I get panicky, and I get

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1 MR. McNAMARA: We're going to get to
2 that. Yes.

3 Q. If it turns out there are other letters that you
4 know of that I don't show you today, please let me
5 know; okay?

6 A. Yes, I would let you know.

7 Q. Thank you. As I told you before, we always need a
8 verbal answer. Your translator can't make the
9 assumption of what you're saying. On the day
10 that -- on March 7th, the day before you were told
11 to go home, you had a conversation with Kevin Dyer
12 and Jose Gouveia; is that right?

13 A. That's when they requested the second letter,
14 I believe. I don't know.

15 Q. And then the following day, on March 8th, did you
16 have another meeting with Jose Gouveia and Kevin
17 Dyer, along with Connor Ryan?

18 A. Yes.

19 Q. Okay. And what happened in that conversation?

20 A. That was the day that I took the second
21 letter. I was working at the machine, and they
22 took somebody to replace me on the machine, and
23 Kevin asked me to come and join them in human
24 resources.

25 Q. What machine were you working at?

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1 A. Potting 2.

2 Q. So they brought you from the machine in potting 2.
3 What happened in the conversation you had with
4 them?

5 A. At first I told them I need an interpreter
6 when I saw all of them there. And Connor said,
7 You speak English. And Gouveia, the one that
8 spoke some Spanish, told me that letter would not
9 be accepted. At 11:00 you have to go to molding
10 to work.

11 Q. You testified that when you spoke to Gouveia, you
12 could understand his Spanish and he could
13 understand you, correct?

14 A. Whenever there was a problem, and there were
15 more bosses, I would request an interpreter. And
16 I always had the same interpreter, whose name was
17 Luis Rodrigues.

18 Q. So they told you then you needed to go to molding,
19 and that letter was not going to be sufficient,
20 correct?

21 A. They said they would not accept it.

22 Q. So what happened then?

23 A. I started crying, and I told them I get very
24 nervous, and I told them that I was going to go
25 home. I could not drive. So I had to call my

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1 daughter to come with the other daughter to take
2 the car. Then I went to see the psychiatrist. He
3 increased the dosage, and he says to seek help
4 because there was nothing else he could do. Then
5 that's when my daughter called Legal Services.

6 Q. Okay. So how long after March 8th did your
7 daughter call Legal Services?

8 A. I don't recall exactly, but that was very
9 quick, within a week I was consulting with a
10 lawyer, because I wanted to get back to my regular
11 job.

12 Q. Now a few days after you went home, did you call
13 Kevin Dyer?

14 THE WITNESS: I?

15 MR. McNAMARA: Either you or perhaps
16 somebody calling on your behalf, one of your
17 children.

18 A. The person who called there was the lawyer
19 and spoke to Gouveia. No, I don't speak English,
20 so I couldn't call.

21 Q. Well, let me see if I can refresh your memory.
22 Kevin Dyer says that a few days after you left,
23 somebody, either you or somebody calling on your
24 behalf, called and left him a message, so then he
25 called you?

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1 Q. So, Exhibit G is a letter to Dr. Greer from a Dr.
2 Jennison who is a doctor who works for Honeywell.
3 Did Dr. Greer tell you he had gotten a letter from
4 a Honeywell doctor which set out the information
5 Honeywell was looking for?

6 A. No, it was between the lawyer and him.

7 Q. So you were not aware that Dr. Greer got a letter
8 from the Honeywell doctor setting forth the
9 information that was needed?

10 A. No. The lawyer explained to me that they
11 were communicating directly with Honeywell.

12 Q. I understand that. But what I want to know is did
13 you know that the Honeywell doctor had asked Dr.
14 Greer -- had specified for Dr. Greer the
15 information Honeywell was looking for?

16 A. No. Whenever I had my appointment with him,
17 he would tell me whatever they requested, he would
18 send it to them.

19 Q. But he didn't tell you that he had been in touch
20 with the doctor from Honeywell?

21 A. No.

22 Q. Does Dr. Greer speak Spanish?

23 A. Perfectly.

24 Q. Okay. So there was no communication problem that
25 you had with him?

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1 Q. Okay. Now the same day that Mr. Dyer says he
2 called you, Mr. Gouveia also received a voice mail
3 message, he says, from not you, but perhaps your
4 daughter, and he says that he called the number
5 and spoke with you, and that you told him that you
6 went to your doctor and that your doctor said he
7 was going to call Honeywell, and he told you they
8 hadn't received any information from the doctor.

9 Does that refresh your memory?

10 A. Let me tell you one thing. When I went to
11 Legal Services, my lawyer instructed me to not to
12 have any more communication with anyone. Any
13 correspondence that I got I would forward them to
14 my lawyer.

15 Q. Okay. So your lawyer told you not to talk to
16 anybody at Honeywell?

17 A. That she would be the one keeping contact
18 with them, not me.

19 EXHIBIT E (DEFENDANT'S EXHIBIT E
20 MARKED FOR IDENTIFICATION)

21 Q. So, Ms. Pena, Exhibit E is another note from Dr.
22 Greer to Honeywell. This is a letter where he
23 refers to a reasonable accommodation request form
24 that the company had given you. Do you remember
25 filling out a reasonable accommodation request

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letter -- as I told you a minute ago, Honeywell's attorney wrote to your attorney on May 22nd. When they didn't hear back from your lawyer for almost a month, and they didn't hear back from your doctor, either, and you hadn't contacted them, they assumed that you just didn't want to work there anymore. So this is the letter in which Mr. Gouveia says that your employment is terminated.

THE WITNESS: Yes, I do have that letter. That's the termination letter.

MR. McNAMARA: Yes, it is.

A. When I got the letter, the lawyer had referred me to another lawyer because she had already thrown in the towel, she said. She did everything that she could, she told me.

Q. Okay. Who did she refer you to?

A. She didn't refer me to any specific lawyer. She was going to take me to the discrimination -- or I could -- the discrimination board, or I could personally look for another lawyer, and then I decided to look for a lawyer.

Q. Okay. And which lawyer did you go to?

A. With them. I don't even remember the name.

Q. I do. Do you remember when you first went to

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1 been unable to perform any work?

2 A. Yes.

3 Q. Do you understand that when you make a claim of
4 disability discrimination, you are alleging that
5 if you had received an accommodation, you could
6 have performed your job?

7 MS. CONNOR: Objection. Legal
8 conclusion.

9 A. I was doing quite well, and they were the
10 ones that harmed me.

11 Q. But you're saying they harmed you as of the first
12 day you went out?

13 A. They ended up hurting me by not accommodating
14 me, and I felt useless after.

15 Q. But that took place after March 8th, correct?

16 A. Yes.

17 Q. Okay. In the decision the -- do you need to take
18 a few minutes?

19 A. No.

20 Q. On the third page of the decision, at the bottom
21 next to Number 3 it says, "The claimant has the
22 following severe impairment: Somatoform
23 disorder." You may not know the answer to this,
24 but do you know what a somatoform disorder is?

25 MS. CONNOR: Objection. Legal

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1 to see these people ever anymore.

2 Q. Who said that?

3 A. My daughter. I told my daughter to tell the
4 lawyer that.

5 Q. I understand that. But that's not what I'm
6 asking. What I'm asking is on the one hand you
7 agreed that you applied for Social Security
8 Disability benefits, and in that you said that you
9 were completely unable to work as of March 8,
10 2013, correct?

11 A. In September.

12 Q. In September you applied but you said that as of
13 March 8th?

14 A. No. When you fill out the application, they
15 ask you when was your last day of work.

16 Q. That's not what the application says. The
17 application says, "I became unable to work
18 because" --

19 THE WITNESS: Which application?

20 MR. McNAMARA: Exhibit M.

21 A. I applied with the help of a lawyer. It was
22 with a lawyer that I applied for Social Security.

23 Q. But in any event, you are saying on the one hand
24 that you are completely unable to work - correct?

25 A. Yes.

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1 A. They messed up my life. My life is all
2 messed up.

3 Q. But I'm looking to see if you can give me even an
4 approximate date when you were no longer able to
5 work at all.

6 A. When I was kicked out of that place, I had to
7 go see the psychiatrist, and that's when I started
8 having panic attacks, and he started giving me new
9 medication and increasing the dose. He said to me
10 you can no longer work because you are sleeping
11 during the day.

12 Q. And when you say you were kicked out, are you
13 referring to March 8th when you were sent home?

14 A. From that point on, that's when I started
15 getting worse. Every time the lawyer would tell
16 me that she would send letters, and then they
17 would decline, it got worse.

18 Q. Were there any other stressors in your life at
19 that point, Ms. Pena, that would affect your
20 mental health?

21 A. Not that I can recall.

22 Q. You said you have four children?

23 A. Yes.

24 Q. Two daughters and two sons?

25 A. Yes.

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1 Q. Were either/or both of your sons, did they have
2 trouble with the law around then?

3 A. Not that I'm aware of. Whatever problem that
4 they have, I don't take it up in myself.

5 Q. You never told Dr. Greer that your sons had been
6 arrested and that was causing you stress?

7 A. That was way before that.

8 Q. When was that?

9 A. I don't recall exactly when, but it could
10 have been eight or nine months prior.

11 Q. Did either/or both of your sons have to go to jail
12 for any period of time then?

13 A. Yes.

14 Q. How long did they have to go?

15 A. Okay, the one who -- the youngest one, he was
16 a minor, he ended up in the Training School.

17 Q. And for how long?

18 A. Six months.

19 Q. And did your other son ever have any problems with
20 the law?

21 A. They both have legal problems, at the present
22 time they do.

23 Q. Okay. So both your sons have had problems with
24 the law over the last few years?

25 A. No. It was recently, about two or three

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85

1 months ago they had some problems. Both of them
2 are incarcerated now, but I won't pay any mind to
3 it. About two or three months.

4 Q. Just a couple more questions and we're done for
5 now.

6 THE WITNESS: That's the reason in
7 the medical record I instructed them not to
8 mention things that had to do with my personal and
9 private life because they don't need to know
10 things, personal things about my life.

11 Q. Since leaving Honeywell, have you applied for any
12 other work?

13 A. No, not at all. That's when I mentioned that
14 my depression has gotten worse.

15 MR. McNAMARA: I think we'll suspend
16 for now and, Alicia, you're going to see about
17 that second note that neither you or I seem to
18 have, and about communications from Social
19 Security, and if I need to bring her back, it
20 would only be for maybe an hour or so.

21 MS. CONNOR: I just have a couple of
22 questions, too, regarding the notes. I think
23 there may be confusion regarding dates and order
24 because one of the documents you produced as an
25 exhibit today references the second note as the